REMARKS

Claims 9, 19, and 29-31 have been canceled. Claims 1-8, 10-18, and 20-28 remain

pending in the application. Applicant amends claims 1, 10-11, and 20-21 for clarification. No

new matter has been added.

Claims 1-8, 10-18, and 20-28 stand rejected under 35 U.S.C. § 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter of the

invention.

Applicant amends claims 1, 10-11, and 20-21 to clearly recite the feature of having

version information indicating a program version be defined in different namespaces when the

program being executed is written in programming language C++. Applicant respectfully

requests that the Examiner withdraw the § 112, ¶ 2 rejection.

Claims 1, 8, 10, 21 and 28 stand rejected under 35 U.S.C. § 103(a) as being unpatentable

over U.S. Patent No. 5,974,454 to Apfel et al. in view of U.S. Patent No. 5,732,275 to Kullick et

al.; claims 2-3, 6-7, 22-23 and 26-27 stand rejected under 35 U.S.C. § 103(a) as being

unpatentable over Apfel et al., Kullick et al., and further in view of U.S. Patent No. 6,381,735 to

Hunt; and claims 4-5 and 24-25 stand rejected as unpatentable Apfel et al., Kullick et al., and

further in view of U.S. Patent No. 5,940,827 to Hapner et al.

Claims 11, 18, and 20 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over

U.S. Patent No. 6,493,768 to Boutcher, in view of Kullick et al., again, it appears that the

Examiner mistakenly cited 35 U.S.C. § 102(e) for an anticipation rejection; claims 12-13 and

16-17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Boutcher, in view of

Kullick et al., and further in view of Hunt; and claims 14 and 15 stand rejected under 35 U.S.C.

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103(a) as being unpatentable over <u>Boutcher</u>, in view of <u>Kullick et al.</u>, and further in view of <u>Hapner et al.</u>

Applicant amends claims 1, 10-11, and 20-21 to clarify the features of the invention as distinguished from the cited references, and respectfully traverses the rejections.

The Examiner, once again, pointed to <u>Kullick et al.</u> to show the feature of changing one or more program components in the process without stopping transaction processing.

Applicant, again, respectfully submits that the Examiner has failed to establish a prima facie case of obviousness. "For a prima facie case of obviousness to exist, there must be some objective teaching in the prior art or ... knowledge generally available to one of ordinary skill in the art [that] would lead that individual to combine the relevant teachings of the references." In re Fine, 837 F.2d 1071, 1074 (Fed. Cir. 1988). "The motivation, suggestion or teaching may come explicitly from 1) statements in the prior art, 2) the knowledge of one of ordinary skill in the art, or 3) in some cases the nature of the problem to be solved." In re Kotzab, 217 F.3d 1365, 1370 (Fed. Cir. 2000) (emphasis added).

The Examiner has not cited any explicit statements in the prior art that provide the motivation, suggestion or teaching to combine the cited references to yield the claimed invention. Failing to cite explicit statements in the prior art, the Examiner must establish the knowledge of one of ordinary skill in the art at the time the claimed invention was made.

"Particular findings must be made as to the reason the skilled artisan, with no knowledge of the claimed invention, would have selected these components for combination in the manner claimed." In re Kotzab, 1371. The Examiner has yet to provide proper findings as to the skilled artisan level.

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Applicant, therefore, respectfully submits that the Examiner has yet to establish a prima

facie case of obviousness. Indeed, the Examiner has apparently used the claimed invention as a

roadmap—and, thus, using improper hindsight therefrom—for combining the references.

Even assuming, arguendo, that it would have been obvious to combine the references,

such combinations would still have failed to teach or suggest the claimed invention. For

example, none of the cited references disclose or suggest the claimed feature of transmitting a

message containing version information indicating a program version, wherein the version

information is defined in different namespaces, when a program being executed is written in

programming language C++, for preventing a collision of names of functions and variables in

different versions of the program.

In other words, the references, as cited and relied upon by the Examiner, fail to disclose

or suggest,

> "[a]n information processing system including at least one
> terminal apparatus and at least one program execution apparatus
> for executing a program written in programming language C++,
> wherein
>   each of said at least one terminal apparatus includes a
> message transmitting unit which transmits a message containing
> version information indicating a program version;
>   wherein the version information is defined in different
> namespaces, when the program being executed is written in
> programming language C++, for preventing a collision of names of
> functions and variables in different versions of the program; and
>   each of said at least one program execution apparatus
> includes,
>   a message receiving unit which receives said
> message containing version information indicating a program
> version, from one of said at least one terminal   apparatus,
>   a program storing unit which stores one or more
> program components,
>   a pre-transfer information management table which
> holds information on said one   or more program components
> stored in said program storing unit,

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a program memory unit which is allocated to an activated process, and temporarily stores at least one program component transferred from said program storing   unit,

a post-transfer information management table which holds information on said at   least one program component stored in said program memory unit, and

a program executing unit which dynamically links one of said one or more program components corresponding to said version information contained in said message received by said message receiving unit, to said program memory unit, so as to enable execution of said one of said one or more program components in said process,   and which changes, without stopping transaction processing, a plurality of versions of a plurality of software components which are distributed over a plurality of the terminal apparatuses when more than one version of a software component may coexist in each of the terminal apparatus," as recited in claim 1. (Emphasis added)

Accordingly, Applicant respectfully submits that claim 1, together with claims 2-8 dependent therefrom, is patentable over the cited references, separately and in combination, for at least the foregoing reasons. Claims 10-11 and 20-21 incorporate features that correspond to those of claim 1 cited above, and are, therefore, together with claims 12-18 and 22-28 dependent therefrom, respectively, patentable over the cited references for at least the same reasons.

The above statements on the disclosure in the cited references represent the present opinions of the undersigned attorney. The Examiner is respectfully requested to specifically indicate those portions of the respective reference that provide the basis for a view contrary to any of the above-stated opinions.

In view of the remarks set forth above, this application is in condition for allowance which action is respectfully requested. However, if for any reason the Examiner should consider this application not to be in condition for allowance, the Examiner is respectfully requested to telephone the undersigned attorney at the number listed below prior to issuing a further Action.
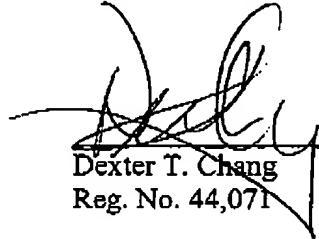
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Any fee due with this paper may be charged to Deposit Account No. 50-1290.

Respectfully submitted,

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